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August 7, 2023

SO ORDERED.

Via ECF

Hon. Alvin K. Hellerstein
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

/s/ Alvin Hellerstein
August 22, 2023

Re: *The Avon Company f/k/a New Avon LLC, et al. v. Fareva Morton Grove, Inc., et al.*,
No. 1:22-cv-4724-AKH

Dear Judge Hellerstein:

We write as counsel to Defendants Fareva Morton Grove, Inc. and Fareva S.A. (collectively, “Fareva”) in the above-captioned action to respectfully request that the Court enter an order maintaining under seal the documents listed below, which Fareva is submitting as exhibits in support of Fareva’s Opposition to Avon’s Motion for Partial Summary Judgment or, in the Alternative, to Compel Fareva to Respond to Avon’s Third Set of Interrogatories (the “Opposition”), as well as portions of Fareva’s Opposition and Fareva’s Response to Avon’s Local Rule 56.1 Statement of Material Facts and Statement of Additional Material Facts (“Fareva’s SMF”) that describe and/or quote the confidential portions of such documents. Copies of these documents, Fareva’s Opposition, and Fareva’s SMF are being filed contemporaneously under seal pursuant to the Court’s standing order, 19-mc-00583, and Your Honor’s Individual Rule 4(b)(ii). In support of this letter motion, Fareva states as follows:

In support of its Opposition, Fareva intends to submit the following documents as exhibits to the Declaration of Paul Weeks, dated August 7, 2023 (the “Weeks Declaration” or “Weeks Decl.”), which contain information regarding Fareva’s suppliers and/or other nonparties to this litigation (collectively, the “Documents Containing Nonparty Information”):

1. An email chain bearing bates numbers FMG_00013849–FMG_00013850, which contains confidential information regarding Fareva’s supplier (Weeks Decl. Ex. 4).
2. An email chain, with attachment, bearing bates numbers FMG_00036569–FMG_00036570, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 7).

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3. An email chain, with attachment, bearing bates numbers FMG_00035173–FMG_00035174, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 8).
4. An email chain, with attachments, bearing bates numbers AVON0077163–AVON0077168, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 11).
5. An email chain, with attachment, bearing bates numbers FMG_00498842–FMG_00498844, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 16).
6. An email chain, with attachment, bearing bates numbers FMG_00602302–FMG_00602304, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 17).
7. An email chain, with attachment, bearing bates numbers FMG_00568514–FMG_00568516, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 18).
8. An email chain, with attachment, bearing bates numbers FMG_00531384–FMG_00531398, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 20).
9. A June 7, 2023 Avon-Fareva Transition Task Force Weekly Meeting presentation deck, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 21).
10. An email chain, with attachment, bearing bates numbers FMG_00030669–FMG_00030671, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 23).
11. An email chain, with attachment, bearing bates numbers FMG_00030219–FMG_00030221, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 24).
12. An email chain, with attachment, bearing bates numbers FMG_00528606–FMG_00528607, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 25).
13. An email chain, with attachment, bearing bates numbers FMG_00082292–FMG_00082294, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 27).
14. An email chain, with attachment, bearing bates numbers FMG_00081820–FMG_00081822, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 28).

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15. An email chain, with attachment, bearing bates numbers FMG_00530016–FMG_00530018, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 29).
16. An email chain, with attachment, bearing bates numbers FMG_00081302–FMG_00081306, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 30).
17. An email chain, with attachment, bearing bates numbers FMG_00081186–FMG_00081188, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 31).
18. An email chain, with attachment, bearing bates numbers FMG_00080638–FMG_00080640, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 32).
19. An email chain, with attachment, bearing bates numbers FMG_00461120–FMG_00461122, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 33).
20. An email chain, with attachment, bearing bates numbers FMG_00080022–FMG_00080024, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 34).
21. An email chain, with attachment, bearing bates numbers FMG_00178464–FMG_00178466, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 35).
22. An email chain, with attachment, bearing bates numbers FMG_00079488–FMG_00079491, which contains confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 36).
23. Portions of the excerpts of the transcripts of the depositions of Courtney Kelly, held on May 26, 2023 and June 9, 2023, which contain confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 43).
24. Portions of the excerpts of the transcript of the deposition of Elyse Kelly, held on May 23, 2023, which contain confidential information regarding Fareva’s supplier (Weeks Decl. Ex. 45).
25. Portions of the excerpts of the transcript of the deposition of Christophe Petras, held on March 9, 2023, which contain confidential information regarding Fareva’s suppliers (Weeks Decl. Ex. 49).

The Second Circuit has instructed that the privacy interests of “third parties should weigh heavily in a court’s balancing” of the right of public access against countervailing factors weighing against disclosure. *United States v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995). Specifically, “the

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privacy interests of non-parties” is a factor that often “outweigh[s] the right of public access.” *SEC v. Telegram Grp. Inc.*, 2020 WL 3264264, at *3 (S.D.N.Y. June 17, 2020). Accordingly, Fareva respectfully requests that the Court enter an order maintaining under seal the redacted portions of the Documents Containing Nonparty Information.

Further, on October 7, 2022, this Court entered a Stipulated Confidentiality Agreement and Protective Order (the “Protective Order”). *See* ECF No. 65. The Protective Order permits either party to designate Discovery Material as “Confidential” or “Attorneys’ Eyes Only.” *See id.* ¶¶ 2, 12. In support of its Opposition, Fareva also intends to submit the following documents as exhibits to the Weeks Declaration, which Avon had produced in this action with the designation of “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Protective Order (collectively, the “Avon Confidential Documents”):

1. An email chain bearing the bates number AVON0077799, which Avon produced in this action and designated “Confidential” (Weeks Decl. Ex. 2).
2. An email chain bearing bates numbers AVON0021118–AVON0021119, which Avon produced in this action and designated “Confidential” (Weeks Decl. Ex. 6).
3. An email chain bearing bates numbers AVON0020676–AVON0020677, which Avon produced in this action and designated “Confidential” (Weeks Decl. Ex. 9).
4. An email chain bearing bates numbers AVON0057350–AVON005732, which Avon produced in this action and designated “Confidential” (Weeks Decl. Ex. 10).
5. An email chain bearing bates numbers AVON0077163–AVON0077168, which Avon produced in this action and designated “Confidential” (Weeks Decl. Ex. 11).
6. A letter bearing bates numbers AVON0072566–AVON0072567, which Avon produced in this action and designated “Confidential” (Weeks Decl. Ex. 13).
7. An email chain bearing bates numbers AVON0076620–AVON0076625, which Avon produced in this action and designated “Confidential” (Weeks Decl. Ex. 14).
8. A letter bearing bates numbers AVON00064130–AVON00064134, which Avon produced in this action and designated “Highly Confidential – Attorneys’ Eyes Only” (Weeks Decl. Ex. 15).
9. An email chain bearing bates numbers AVON0000492–AVON0000509, which Avon produced in this action and designated “Confidential” (Weeks Decl. Ex. 22).
10. A letter bearing the bates number AVON0081547, which Avon produced in this action and designated “Confidential” (Weeks Decl. Ex. 46).
11. A presentation bearing bates numbers AVON0078575–AVON0078580, which Avon produced in this action and designated “Confidential” (Weeks Decl. Ex. 47).

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12. An email chain bearing bates numbers AVON0057134–AVON0057137, which Avon produced in this action and designated “Confidential” (Weeks Decl. Ex. 48).

By making this sealing request with respect to the Avon Confidential Documents (except to the extent the Avon Confidential Documents are also included among the Documents Containing Nonparty Information), Fareva does not contend that good cause exists to designate any of the foregoing materials as Confidential or Attorneys’ Eyes Only within the meaning of the Protective Order. Instead, Fareva merely seeks to comply with its obligations under the Protective Order to file under seal documents that Avon has designated as Confidential or Attorneys’ Eyes Only. Moreover, Avon filed a substantially similar letter motion to seal in connection with its Motion for Partial Summary Judgment or, in the Alternative, to Compel Defendants to Respond to Plaintiffs’ Third Set of Interrogatories, *see* ECF No. 133, which the Court granted, *see* ECF No. 142. Accordingly, Fareva respectfully requests that the Court maintain such documents under seal, subject to any contrary request by Avon at any time. As needed, Fareva is prepared to re-file the Avon Confidential Documents or portions thereof publicly.

Finally, as noted above, in addition to submitting the Documents Containing Nonparty Information and the Avon Confidential Documents as exhibits in support of its Opposition, Fareva’s Opposition and Fareva’s SMF also describe and/or quote the confidential portions of such documents. Accordingly, Fareva has redacted the portions of its Opposition and SMF that describe and/or quote the confidential portions of the Documents Containing Nonparty Information and the Avon Confidential Documents, and for the reasons above, also respectfully requests that the Court enter an order maintaining under seal the redacted portions of these documents.

As always, we thank the Court for its consideration.

Respectfully submitted,

/s/ Mark A. Kirsch
Mark A. Kirsch

cc: All counsel of record (via ECF)